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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,516	10/24/2003	Tsuyoshi Moriyama	03560.003375.	7417

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FITZPATRICK CELLA HARPER & SCINTO
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NEW YORK, NY 10112

EXAMINER

WONG, JOSEPH S

ART UNIT	PAPER NUMBER
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2852

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/691,516

Applicant(s)

MORIYAMA ET AL.

Examiner

Joseph S. Wong

Art Unit

2852

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 4-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/23/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Species I in the reply filed on 2/8/07 is acknowledged. The traversal is on the ground(s) that "a search of the relevant art for one species will require substantial consideration of the art relevant to the other species". This is not found persuasive because each of the species identified in the election of species requirement of 1/8/07 each disclose different ways of avoiding execution of an adjustment mode while a print job is running. Each species would require a separate search with different considerations and focus. Therefore an examination of all of the species together would present an undue significant burden to the examiner.

The requirement is still deemed proper and is therefore made FINAL.

Information Disclosure Statement

Document numbers 63-43169 and 1-261668 have not been received, and thus have not been considered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Shinohara (US 6122461).

With respect to claim 1, Shinohara discloses an image formation apparatus for forming images based on input image data, comprising: an automatic adjustment unit for performing automatic adjustment of said image formation apparatus (figs. 5 & 6; col. 8, lines 45-55); a job queuing unit for queuing image formation jobs (col. 10, lines 40-45, "next print job"); a counting unit for counting the number of image formation pages from the previous automatic adjustment (fig. 6, item S402, S409), for each automatic adjustment item which said automatic adjustment unit performs; a determining unit for determining whether or not the number of image formation pages at which said automatic adjustment is to be performed by said automatic adjustment unit will be reached during execution of said image formation job queued by said job queuing unit, based on the number of image formation pages counted by said counting unit and said image formation job queued by said job queuing unit (col. 10, lines 40-50); and a control unit wherein, in the event that said determining unit determines that the number of image formation pages at which said automatic adjustment is to be performed by said automatic adjustment unit will be reached during execution of said image formation job

queued by said job queuing unit, automatic adjustment is performed by said automatic adjustment unit before starting executing of said image formation job queued by said job queuing unit even though the number of image formation pages counted by said counting unit has not reached the number at which said automatic adjustment is to be performed by said automatic adjustment unit (col. 10, lines 40-50).

With respect to claim 2, Shinohara further discloses wherein said determining unit determines whether or not the number of image formation pages at which said automatic adjustment is to be performed by said automatic adjustment unit will be reached during execution of said image formation job queued by said job queuing unit, by determining whether or not the sum of the number of image formation pages counted by said counting unit and the number of image formation pages of the image formation job queued by said job queuing unit is greater than the number of image formation pages at which said automatic adjustment is to be performed (col. 10, lines 40-50).

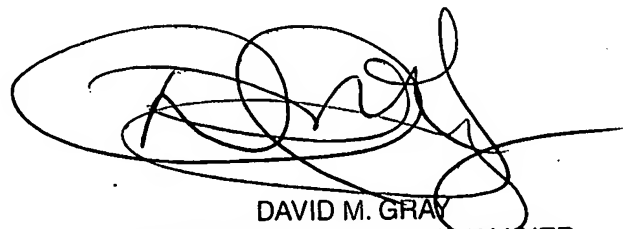
With respect to claim 3, Shinohara further discloses wherein said automatic adjustment to be performed by said automatic adjustment unit includes density adjustment (col. 8, lines 40-45).

Remarks

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph S. Wong whose telephone number is (571)272-8457. The examiner can normally be reached on Monday - Friday 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Gray can be reached on (571)272-2119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joseph Wong
Patent Examiner
Art Unit 2852
2/28/07



DAVID M. GRAY
SUPERVISORY PATENT EXAMINER